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SUBJECT: NINEWA JUDGES FIRE BACK AT DETRACTORS, BLAME SYSTEM FOR TERRORIST PROBLEMS

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REASON: 1.4 (b), (d)

SUMMARY

1. (C) Ninewa's judges are having difficulty with the public's negative perception of their work. In part, they blame Iraqi Army (IA) and Iraqi Police (IP) officials for "public statements" made to the press that condemn the judges for faults in the system. The judges make clear, however, that there is a fundamental problem with the system itself. These problems, according to Chief Judge Sadeeq, are a tough penal code that requires very detailed and specific information to process cases. Sadeeq said investigative information from the IA, or lack thereof, "forces" judges to release many detainees because of faulty evidence. To help remedy the problem Sadeeq and his associates are calling a meeting with IA and IP officials to discuss the issue. Sadeeq said he hopes that opening dialogue would be the best way to correct problems and ensure the justice system in Ninewa succeeds. End Summary.

2. (SBU) PRT Rule of Law rep and Poloff met with Ninewa Chief Judge Faisal Sadeeq and Investigative Judge Amer Rashid Hammedi at Mosul Courthouse on February 14.

THE SYSTEM TO BLAME FOR CASE PROBLEMS

3. (C) Chief Judge Sadeeq is tired of his judges taking the blame for the low number of convictions for terrorism cases originating in Ninewa. He said criticism by Iraqi Police (IP) and Iraqi Army (IA) that judges are "cowardly" and routinely "release terrorists" is unfair. Sadeeq and Investigative Judge Hammedi blame the "system" for what they believe demonstrates a disconnection between the investigative arm of the IP and IA and the penal code. Sadeeq said, so far, many cases lack evidence necessary to convict a suspect, or as is more likely, the evidence is not collected or documented correctly by IP and IA investigators. He said when judges do not have this specific information they are forced to release the detainee even though the person "might actually be a terrorist."

COOPERATION WITH ARMY A "SERIOUS PROBLEM"

4. (C) Hammedi said one of the main problems with hearing cases has been due to a lack of cooperation between the Ninewa judges and the IA 2nd Division. Hammedi said he is surprised when he hears about "terrorists" caught by IA and IP, where large caches of weapons are found, but that such evidence does not quite make its way to the courts. As an example, Hammedi showed PRT Rule of Law rep a case of a suspected terrorist who has been held since November of last year. Hammedi said the case against the suspect "lacked" pertinent information. He pointed out how the file was missing specific biographic data on the detainee, as well as the number and description of the confiscated items, and the date, time, and location of the incident and investigation. He complained that, in this particular case, the evidentiary photos were photocopies or reproductions from newspapers. Hammedi said IA investigators claimed they found a "large cache of weapons" in the house of the suspect, but that the photo of the evidence showed weapons sitting outside leaning against a jersey barrier instead of the house where the weapons were allegedly found.

5. (C) More importantly, Sadeeq and Hammedi question the cooperation, or lack thereof, by 2nd Division Commanding General Jamaal. Hammedi said the 2nd Division has two agents (referred to simply as numbers "17 and 24") who conduct all investigations for eastern Ninewa. However, these two agents are not allowed to testify in court, according to General Jamaal. The issue has caused consternation between the judges and the general, and has turned into a "war of memos" where each side has blasted the other in writing for their lack of cooperation. Sadeeq handed PRT Rule of Law rep a copy of a letter received from Jamaal refusing to allow his agents to testify. Hammedi said Jamaal's

insubordination is not within the law and that the court is mulling the possibility of filing a case against the general. According to Hammedi, however, the likelihood of such an action is minimal since he believes it would only aggravate the situation. Hammedi claimed 10 memos have been sent to Jamaal reminding him of the consequences of his lack of cooperation, but that all of the responses have been negative.

JUDGES NOT WITHOUT FAULT -- CALL FOR MEETING

16. (C) Sadeeq said the 2nd Division might not be the only reason for case delays in Ninewa. He said perhaps even his own judges are not without fault. Sadeeq said in his own assessment of the nine investigative judges in Mosul, he noticed they tend to work as "individuals" rather than collectively. He admitted that in certain instances some judges could be dishonest, but that he could not verify this without further examination. Sadeeq said he would like to get to the root of the problem with the IA and IP specifically, and suggested that the first step towards correcting the issue would be to have a meeting with their commanders. Sadeeq admitted that his "memo war" with Jamaal cannot continue. He said the group should sit down to discuss the legal process so that everyone is "on the same page." Sadeeq said he believes these discussions would also help reveal any problems in the system.

COMMENT

17. (C) Judges Sadeeq and Hammedi are unhappy about a system they see as hard on judges. Sadeeq said he is troubled by public statements to the press made by IA and IP officials who blame the judges for problems with the justice system. What is frustrating for Sadeeq, however, is that he and his colleagues are not permitted to speak to the media, and therefore are unable to publicly reply to these accusations. As a result, Sadeeq said the judges simply push on, doing their jobs as best as they can, given the circumstances. Sadeeq is convinced that opening dialogue with the IP and IA should improve relations and, at a minimum, serve as an initial step towards shoring up the investigative process. More importantly, Sadeeq and Hammedi have made clear to us they not only want the justice system to work in Ninewa, but also that success depends on everyone -- IA, IP, and the courts -- working in unison. We will continue to follow this issue and assist in any way we can with the upcoming meeting.
MUNTER